

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

OSCAR FERNANDEZ, Individually  
and as Administrator of THE ESTATE  
OF ISIDRO FERNANDEZ,

Plaintiff,

vs.

TYSON FOODS, INC., TYSON  
FRESH MEATS, INC., JOHN H.  
TYSON, NOEL W. WHITE, DEAN  
BANKS, STEPHEN R. STOUFFER,  
TOM BROWER, TOM HART,  
CODY BRUSTKERN, JOHN  
CASEY, AND BRET TAPKEN,

Defendants.

CASE NO.: 6:20-CV-02079-LRR-KEM

**EXPEDITED UNRESISTED MOTION  
FOR EXTENSION OF TIME OR FOR  
SCHEDULING CONFERENCE**

**EXPEDITED UNRESISTED MOTION FOR EXTENSION OF TIME OR  
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Pursuant to Local Rule 7(i) and (j) and 16(e), Defendants respectfully request a three-week extension of the December 1 deadline to submit a Scheduling Order and Discovery Plan and a similar extension of the December 11 deadline to respond to the First Amended Complaint.

**Recent (and anticipated) amendments to the Complaint.** On November 11, Plaintiff filed a First Amended Complaint. That amendment included substantial changes to the case, including the addition of two new defendants, the voluntary dismissal of eleven existing defendants, and the addition of new allegations. [Dkt. 29]

Counsel for Plaintiff recently represented to the undersigned counsel that Plaintiff will seek leave to file a Second Amended Complaint that would add yet another defendant and

include additional new factual allegations. A similar Second Amended Complaint was recently proposed (on behalf of separate plaintiffs) by the same plaintiffs' counsel in a companion Northern District case captioned *Buljic v. Tyson Foods, Inc., et. al.* Case No. 6:20-cv-02055. [Dkt. 42] The pleadings in both cases are substantially identical and near identical amendments were filed in both cases on an earlier occasion. Thus, Defendants anticipate that Plaintiff will seek leave to file a Second Amended Complaint in this case similar to that filed in *Buljic*.

**Request for Extension.** In light of the new defendants and new allegations added in Plaintiff's First Amended Complaint—and the additional new defendant and new allegations that are expected to be added in Plaintiff's anticipated Second Amended Complaint—Defendants request a three-week extension of the existing deadlines to submit a Scheduling Order and Discovery Plan and to respond to the operative complaint. As has been noted in the media and acknowledged by opposing counsel, Tyson has retained the law firm of Covington & Burling LLP to conduct an independent investigation led by former Attorney General Eric Holder. In light of that ongoing investigation, Defendants need additional time to evaluate the impact of these new allegations on their current representation and whether new or different counsel may be desired or necessitated by some Defendants to represent them in this case. In addition, the filing of a Second Amended Complaint will further impact the current deadlines for motions to dismiss (or other responses).

The resolution of the above issues impacts the Defendants' ability to propose or agree to firm deadlines in the Scheduling Order and Discovery Plan, including the trial ready date, discovery engagement, and deadlines for filing of motions in response to the First and/or Second Amended Complaint.

Accordingly, in the interests of judicial efficiency, the Defendants request a three-week extension of existing deadlines to facilitate the orderly entry of a schedule in this case and a similar extension of the deadline to respond to the anticipated Third Amended Complaint. There has been one prior request for a 60-day extension of the deadline for submission of the Scheduling Order and Discovery Plan that was denied. [Dkt. 42]

Alternatively, Defendants request a scheduling conference to address the above issues to the extent such a conference would be helpful to the Court. Defense counsel has personally conferred in good faith with Plaintiff's counsel and Plaintiff consents to the motion.

/s/ Kevin J. Driscoll

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### CERTIFICATE OF SERVICE

This is to certify that, on November 30, 2020, a true and correct copy of the foregoing document was served upon all counsel of record via the Court's CM/ECF system as follows:

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